

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ZANE BROWN,
Plaintiff,**

No. 2:23-CV-00355-DHU-GJF

**v.
LEA COUNTY SHERIFF'S
DEPARTMENT; COREY HELTON;
MICHAEL WALKER; MIKE
GALLAGHER; and CRAIG BOVA,
Defendants.**

RESPONSE TO JUNE 11, 2024 ORDER TO SHOW CAUSE [DOC. 26]

Defendants Lea County Sheriff's Department, Corey Helton, Michael Walker, Mike Gallagher, and Craig Bova ("Defendants"), by and through counsel, MYNATT SPRINGER P.C. (Benjamin J. Young), provide the following response to the Court's Order to Show Cause [Doc. 26] issued June 11, 2024.

Defendants filed two separate Motions to Dismiss [Doc. 10 and Doc. 11] Plaintiff's Complaint [Doc. 1]. On March 28, 2024, the Court entered its first Order [Doc. 24] granting in part and denying in part Defendants' first Motion [Doc. 10]. On April 15, 2024, the Court issued its second Order [Doc. 25] granting in part and denying part Defendants' second Motion to Dismiss [Doc. 11]. The combination of these two orders left the Plaintiff's Complaint [Doc. 1] in disarray as they eliminated Defendants and claims from the Complaint [Doc. 1].

Fed. R. Civ. P. 12(a)(4)(A) provides that a responsive pleading shall be filed fourteen (14) days after an order denying a motion to dismiss. Since the Court's two separate orders denied in part and granted in part the Motions to Dismiss, Undersigned Counsel and Plaintiff's Counsel agreed that it would be appropriate to file an amended complaint. *See* Exhibit 1, Email Correspondence dated May 16, 2024 between Benjamin Young and Plaintiff's Counsel. Due to a

number of circumstances and events some unanticipated and others personally significant, an amended complaint was not filed by Plaintiff's Counsel. Undersigned Counsel intended to request a status conference with the Court to apprise it of the aforementioned agreement but inadvertently neglected to do so. Following receipt of the Order to Show Cause [Doc. 26], Undersigned Counsel communicated with Plaintiff's Counsel to discuss the status of the amended complaint. *See* Exhibit 2, Email Correspondence dated June 11, 2024 between Benjamin Young and Plaintiff's Counsel. Plaintiff's Counsel advised he intends to file an amended complaint by June 21, 2024 and Undersigned Counsel will either file a responsive pleading or a motion within fourteen (14) days of the amended complaint.

Defendants, therefore, respectfully request the Court allow the time for Plaintiff to file an amended complaint to address the deficiencies identified in the Court's March 28, 2024 and April 15, 2024 orders. Defendants further request the Court allow Defendants to file an appropriate responsive pleading or dispositive motion following the filing of the amended complaint.

Respectfully submitted,

MYNATT SPRINGER P.C.



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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of June 2024, a copy of the foregoing pleading was served on the following via CM/ECF and electronic mail:

Joseph M. Zebas
Joe.zebas@zebaslaw.com
Attorney for Plaintiff



BENJAMIN J. YOUNG

From: Benjamin J. Young
Sent: Thursday, May 16, 2024 1:52 PM
To: joe.zebas@zebaslaw.com <joe.zebas@zebaslaw.com>
Subject: Zane Brown v. Lea County

Good afternoon, Joe:

Just wanted to connect with you on this matter after our recent conversation on the above matter. I understood you intended to file an amended complaint following the Judge's recent ruling on the motions we filed. Do you still intend to do so? Otherwise, I suggest we request a status conference with the judge to set some initial deadlines for amendment, responsive pleading, and motion practice. Let me know what you think.
Ben

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From: [Benjamin J. Young](#)
To: joe.zebas@zebaslaw.com
Cc: [Brandi Breen](#)
Subject: Amended Complaint in Brown v. Lea County
Date: Tuesday, June 11, 2024 2:45:39 PM

Thanks for taking my call this afternoon, Joe. Sorry to hear about the flooding at your place. Hope it all gets squared away quickly.

With respect to today's Order to Show Cause in the above matter, I understand you were in agreement with me advising the Court that you intend to file an amended complaint on behalf of your client by the end of next week. The reason for the amended complaint was that Judge Urias' orders eliminated a defendant and a couple of claims from your client's original action, making it difficult for me to answer the complaint as pled. I understand that you have had a number of personal matters, including a daughter's wedding out of state, that prevented you from filing the amended complaint sooner.

I intend to file the response to the Court's order by tomorrow as I will likely be out of the office Thursday and Friday. Please let me know if I misunderstood anything. Thanks again.

Ben

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